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Attorneys for defendants PAUL MILTON MADORE and
J VITALI TRANSPORTATION

UNITED STATES DISTRICT COURT SOUTHERN
DISTRICT OF NEW YORK

-----X
BRYAN REYNOSO

Plaintiff(s),

-against-

PAUL MILTON MADORE and J VITALI
TRANSPORTATION,

Defendant(s).

-----X

Docket No.:22-CV-7857

NOTICE OF REMOVAL
OF ACTION UNDER 28
U.S.C § 1446(a)
DIVERSITY

TO THE CLERK OF THE
UNITED STATES
DISTRICT COURT FOR
THE SOUTHERN DISTRICT
OF NEW YORK:

PLEASE TAKE NOTICE that pursuant to 28 U.S.C. §§1332, 1441 and 1446, that Defendants J VITALI TRANSPORTATION (hereafter "J VITALI") and PAUL MILTON MADORE (hereafter "MADORE"), with a full reservation of defenses, hereby remove the pending New York State civil action from the Supreme Court of the State of New York, County of Kings, to the United States District Court for the Southern District of New York in accordance with 28 U.S.C. § 1446 and respectfully represents as follows;

PLAINTIFF'S COMPLAINT AND NATURE OF THE ACTION

1. On July 26, 2022, this action was filed with the Court against J VITALI and MADORE in the Supreme Court of the State of New York, Bronx County, Index Number 810854/2022E. Pursuant to 28 U.S.C. §1446(a), a copy of the Summons and Complaint is annexed hereto as Exhibit “A.”

2. In his Complaint, the Plaintiff alleges personal injuries from a motor vehicle accident which occurred in Connecticut. A true and accurate copy of the police report from the accident is annexed hereto as Exhibit “B.”

DIVERSITY JURISDICTION IS PROPER

3. This Court has original jurisdiction over this civil action pursuant to 28 U.S.C. § 1332. The Verified Complaint alleges a matter in controversy, which, if liability is established, is reasonably probable to exceed the sum or value of \$75,000, exclusive of interest and costs and complete diversity of citizenship exists between the Plaintiffs and the Defendants.

DIVERSITY EXISTS

4. Defendants seek removal of this action pursuant to 28 U.S.C. §1446 and Local Civil Rule 81.1, which permits removal of causes of action based upon diversity of citizenship of the parties.

5. The Plaintiff alleges to reside in the State of New York, in Bronx County. Please see Exhibit “A.”

6. At the time the Complaint was filed, the Defendant MADORE was deceased.

7. The Defendant J VITALI is a corporate entity organized and existing under the laws of Connecticut and had a principal place of business within the state of

Connecticut. Please see Exhibit “B.”

8. Pursuant to 28 U.S.C. 1332(c), “a corporation shall be deemed to be a citizen of any State by which it has been incorporated and of the State where it has its principal place of business.”

9. There is complete diversity of citizenship between the parties to this action pursuant to 28 U.S.C. §1332(a)(2) because the action involves parties that reside in two different States.

10. Therefore, this action may be removed to this Court pursuant to 28 U.S.C. §1441.

THE AMOUNT IN CONTROVERSY REQUIREMENT IS SATISFIED

11. It is reasonably probable that the plaintiff seeks recovery for an amount in excess of \$75,000.00, exclusive of interest and costs.

12. The plaintiff’s Verified Complaint did not state the amount of damages that the plaintiff deems himself entitled to, but nevertheless meets the requirements of 28 U.S.C. §1446(c)(2)(A)(ii) as the State practice either does not permit demand for a specific sum or permits recovery of damages in excess of the amount demanded (please see CPLR §3107(c)).

13. This is a matter that alleges that the Plaintiff sustained injuries in an accident with a Medium/Heavy truck. Please see Exhibits “A” and “B.”

NOTICE

14. Pursuant to 28 U.S.C. §1446, a copy of this Notice, with a Notice of Removal, is being filed with the Supreme Court of the State of New York, Bronx County.

VENUE IS PROPER

15. The United States Court for the Southern District of New York includes the

county in which the state court action was pending (Bronx) and thus, pursuant to 28 U.S.C. §124(b)(2), venue is proper.

RESERVATION OF DEFENSES AND RIGHTS

16. Defendants reserve all defenses, including, without limitation, the defense of lack of personal jurisdiction.

17. Defendants reserve the right to amend or supplement this Notice of Removal.

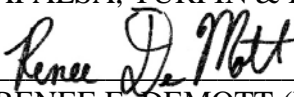
18. If any question arises as to the propriety of the removal of this action, Defendants respectfully request the opportunity to present a brief and oral argument in support of its position that the case is removeable.

THEREFORE, all parties to the Civil Action pending in the Supreme Court of the State of New York, Bronx County, Index No. 810854/2022E are HEREBY NOTIFIED pursuant to 28 U.S.C. § 1446 and Local Civil Rule 81.1 , as follows:

Removal of the Civil Action and all claims and causes of action therein is effect upon the filing of a copy of the Notice of Removal with the Clerk of the State Court pursuant to 28 U.S.C. §1446. The Civil action is removed from the State Court to the United States District Court for the Southern District of New York. The parties to the Civil Action shall proceed no further in the State Court.

WHEREFORE, the Defendants that this cause of action now pending in the Supreme Court of the State of New York, Bronx County, be removed to the United States District Court for the Southern District of New York.

Dated: September 14, 2022
New York, New York

Yours etc.
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